

REMARKS/ARGUMENTS:

Claims 13-22 and 34-35 are pending in this application. The Office Action dated March 20, 2006 rejects all claims over 35 USC 101 as not producing a useful, concrete and tangible result. This Amendment changes the sole independent claim to recite that the signal constellation is represented digitally on a computer readable storage means, and adds a step of outputting at least one detected symbol that corresponds to the fitted data sample. The former change is supported at page 6 lines 20-22 and 30-32; and the latter change is supported at page 22 line 28 to page 23 line 6 and page 23 lines 25-29.

The latter change is seen to make explicit what was seen to be implied by fitting a data sample to a signal constellation. Converting a data sample to detected symbols is a useful, concrete and tangible result, and is seen to render moot the rejection under 35 USC 101. See *Diamond v Diehr*, 450 US 175 (a process is an act or series of acts "performed upon the subject matter to be transformed and reduced to a different state or thing"). More than just an arrangement of data, it is a conversion of a sample to a definitive symbol which may be further processed in a receiver, such as by decoding at the baseband (if channel coding is present), demultiplexing, and the like. This is seen to be more concrete and tangible than the method claim for choosing, measuring, determining and transferring compensation to a manager, for which the Board of Patent Appeals and Interferences held at *In re Lundgren*, 76 USPQ2d 1385 (BPAI 2005) was statutory subject matter, as it seems also to satisfy the dissenting administrative judge's dicta that the test should apply to machine implemented processes. The undersigned interprets the PTO's "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" (22 Nov 2005), at part IV C, as determining whether a claim transforms data from one value to another, and then determining whether the transformed value represents a useful, concrete and tangible result. Claim 13 as amended herein is seen to meet both prongs of the above subject matter eligibility test, and is therefore seen to be patentable.

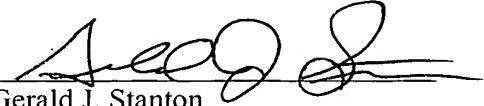
The Applicants respectfully request the Examiner to pass claims 13-22 and 34-35 to issue. The undersigned representative welcomes the opportunity to resolve any



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formalities or other matters that may remain via teleconference, at the Examiner's discretion.

Respectfully submitted:


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Date

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June 20, 2006
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